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7 **UNITED STATES DISTRICT COURT**  
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9 **EASTERN DISTRICT OF CALIFORNIA**

10 BENNY DECARLO GALLEGOS,  
11 Plaintiff,  
12 v.  
13 COMMISSIONER OF SOCIAL SECURITY,  
14 Defendant.

Case No. 1:23-cv-00090-SAB

ORDER REQUIRING PLAINTIFF TO  
SHOW CAUSE WHY SANCTIONS  
SHOULD NOT BE IMPOSED FOR  
FAILURE TO FILE OPENING BRIEF

(ECF No. 5, 12, 13)

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16 On January 20, 2023, Plaintiff Benny DeCarlo Gallegos, proceeding *pro se*, filed this  
17 action seeking judicial review of a final decision of the Commissioner of Social Security  
18 (“Commissioner”) denying an application for disability benefits pursuant to the Social Security  
19 Act. (ECF No. 1.) On January 24, 2023, the Court issued a scheduling order. (ECF No. 5.)  
20 Pursuant to the scheduling order, Plaintiff’s motion for summary judgment was due 45 days  
21 after service of the administrative record. (*Id.* at 2.) The administrative record was filed and  
22 served on March 24, 2023. (ECF No. 11.) Plaintiff’s motion for summary judgment was  
23 therefore due by May 8, 2023. On May 9, 2023, the Court noted Plaintiff had not filed his  
24 motion for summary judgment or other filing by the deadline, and issued an order to show  
25 cause why sanctions should not issue for failure to file the motion for summary judgment in  
26 compliance with the Court’s scheduling order (ECF No. 5). (ECF No. 12.) On May 10, 2023,  
27 Plaintiff’s motion for summary judgment was entered on the docket as filed on May 9, 2023.  
28 (See ECF No. 13.) Having noted Plaintiff’s motion was filed on the same day the Court issued

1 its order to show cause, the Court shall discharge the order to show cause and sua sponte grant  
2 Plaintiff a one-day nunc pro tunc extension to file his brief.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The Court's May 9, 2023 order to show cause (ECF No. 12) is DISCHARGED;  
5 and  
6 2. Plaintiff is granted a nunc pro tunc extension of one day on the deadline to file his  
7 motion for summary judgment and the brief is deemed timely submitted as of  
8 May 9, 2023.

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10 IT IS SO ORDERED.

11 Dated: May 10, 2023



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UNITED STATES MAGISTRATE JUDGE

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